

### **REMARKS**

Claims 1, 7-26 and 49-51 are pending in this application. Support for the Amendments to the claims may be found in the canceled claims. No new matter was added. Applicants reserve the right to file continuing applications to unclaimed subject matter.

In the Office Action, Claims 1 and 7-26 were rejected under 35 U.S.C. 112, second paragraph. The foregoing amendment addressed the majority of the rejections as follows. Claim 1 was amended in line 6 to insert a comma after "polymer". Claims 7 and 8 were amended to show dependency upon Claim 1, and to clarify the type of PVP as set forth in Claim 1. Claims 19-21 were amended to clarify the type of PVP as set forth in Claim 1. Claims 22-26 were amended to address the maleic anhydride additive that is not recited in Claim 1. Claim 10 was amended to clarify the meaning of "1/1% to 5/5%".

Applicants traverse the rejection of Claim 11 for the following reasons. The quoted patent application discloses a particular type of ophthalmic devices, namely silicone hydrogels. To one of ordinary skill in this art the identification of lenses in this method of not ambiguous. Applicants respectfully submit that the rejection of Claim 11, under 35 U.S.C. §112, second paragraph has been overcome and should be withdrawn.

In the Office Action claims 49-51 were rejected under 35 U.S.C. 103(a) as being unpatentable over British Patent Application 2,078,760 in view of Morinaga et al, (see Examples 1-3). British -760 is applied for reason of record as set forth in paragraph 4 of the previous action. It was asserted that

instant surface roughness is within the purview of the art in making plastic parts as taught in Morinaga et al and that one of ordinary skill in the art would have found such an obvious surface roughness for the package of British -760 to impart to same an attractive and smooth appearance.

Applicants traverse this rejection for the following reasons.

The invention of claims 49-51 provide a package for storing ophthalmic devices comprising ... an inner surface, wherein said inner surface has an average roughness. The purpose of roughening said inner surface to prevent sticking of ophthalmic devices to their packaging. This roughened inner surface is hidden from the user when they purchase the package and does not enhance the appearance of the package. Morinaga teaches the roughening of parts to provide "plastic molded articles exhibiting a high quality external appearance." See Morinaga, col. 2, lines

22-25. Given that Morinaga teaches methods of modifying an external surface to improve the appearance of a product to a consumer and that the packages of the invention are modified on their inner surface which is hidden from the consumer prior to opening the package, the roughening of an inner surface of a package would not be suggested to one of ordinary skill after reading Morinaga.

With respect to British -760, this reference teaches that antistatic agents may be incorporated into synthetic plastic materials to reduce or eliminate the deposition of dust on plastics containers. See British-760 page 1, lines 8-9. There is no teaching or suggestion in this reference that the sticking of dust particles is similar to the sticking of an ophthalmic device, particularly a hydrogel. Given that the inner surface of Applicants' claimed packages are roughened for reasons other than appearance and there is no suggestion that the sticking of dust particles is similar to the sticking of ophthalmic devices, the packages of claims 49-51 would not be suggested to one of ordinary skill in view of either reference or the combination thereof. Applicants respectfully submit that the rejection of claims 49-51 under 35 U.S.C. § 103(a) over British -760 in view over Morinaga has been overcome and should be withdrawn. Reconsideration of the rejection is respectfully requested.

In the Office Action Claims 1 and 7-14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document 52-93398 in view of Neeffe essentially for reasons of record as set forth in paragraph 5 of the previous office action. It was asserted that

Japanese-398 does not disclose a particular molecular weight for the PVP, it is submitted that such would have been well within the skill level of the art. ... based on the teaching of Neeffe, one of ordinary skill in the art would have found it obvious to have compounded the PVP additive in Japanese-398, in lieu of simply forming a layer on the surface as disclosed by Japanese -398.

Applicants traverse this rejection for the following reasons.

Applicants claimed invention requires that a particular type of PVP be incorporated into the polymer of the ophthalmic device package. It was asserted that the teachings of Neeffe instruct one that coating of a mold with a "release agent: is equivalent to incorporating the "release agent" in to a polymer prior to molding, and that, this teaching is applicable "to whatever additive one desires to incorporate into a plastic." See the office action of December 31, 2007, paragraph 5. The experimental evidence in Applicants' specification contradicts the assertion that "whatever additive" one desires to incorporate into a plastic works to prevent the

adhesion of an ophthalmic device to its packaging. Applicants have clearly demonstrated that not all additives work in prepare containers suitable for preventing the sticking on an ophthalmic device to its packaging. See specification, tables 1 and 2. Given that the majority of additives do not work and the fact that Neeffe doesn't teach or suggest using PVP of any grade, one of ordinary skill would not be motivated to pick PVP of any grade and use in a manner the manner suggested by Neeffe.

Further with respect to Japanese-398, the only reference that teaches the use of PVP, this reference teaches methods of preventing the sticking of blood samples to beakers made of polyethylene resins. See Japanese-398 page 2, paragraph 4. There is no suggestion in this reference that the substances that are coated on beakers to prevent the sticking of blood samples would be useful when attempting to inhibit the sticking of ophthalmic devices, particularly hydrogels to hydrophobic materials. Applicants submit that since one reference teaches that beakers may be coated with a substance (PVP) to prevent sticking of blood products, and another reference incorporates "release agents", other than the substance of the first reference into a plastic, the combination of these references does not suggest incorporating the substance of the first reference by the methods of the second reference. Applicants respectfully submit that the rejection of Claims 1 and 7-14 under 35 U.S.C. 103(a) as being unpatentable over Japanese-398 in view of Neeffe has been overcome and should be withdrawn. Reconsideration of the rejection is respectfully requested.

In the Office Action,

[c]laims 15-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese document 52-93398 in view of Neeffe and Morinaga et al. (*citations omitted*) Japanese-398 and Neeffe are applied for reasons of record, the references disclosing the basic claimed package lacking essentially the surface roughness of the package. Morinaga et al is applied for reasons of record as set forth in paragraph 2, *supra*, the reference teaching plastic molded parts with the instant roughness. Based on the teaching of Morinaga et al, it would have been obvious to have made the package of British -760 with such a roughness to for reasons of record, that the references disclosing the basic claimed package lacking essentially the surface roughness of the package.

Applicants traverse this rejection for the following reason.

First Applicants note that in the rejection of the claims was supported by referring to British-760 and that reference was not cited in the grounds for rejection.

In order to advance the prosecution, Applicants assume that Neeffe was intended instead of British-760.

Applicants claimed invention requires roughening on the inner surface of the package and not on the external surface as taught by Morinaga. As discussed above, Neeffe does not teach or suggest incorporating PVP into its plastics, and Japanese-398 uses PVP of an unspecified grade in a different manner. Given the fact that it most additives cannot be used as additives in Applicants claimed invention and that Japanese-398 does not suggest that a substance that is coated on a surface to inhibit the adhesion of blood products can be used to inhibit the adherence of a polymer( ophthalmic device) to a hydrophobic polymer, one of ordinary skill would not be motivated to use a particular grade of PVP with a roughened inner surface, as required by Applicants' claimed invention. Applicants respectfully submit that the rejection of claims 15-26 under 35 U.S.C. § 103(a) as being unpatentable over Japanese document 52-93398 in view of Neeffe and Morinaga et al, has been overcome and should be withdrawn.

Applicants respectfully submit that all pending claims are in condition for allowance and solicit such notice. In the event the Examiner believes that an interview would expedite the disposition of this case, the Examiner is invited to contact the undersigned agent directly.

Respectfully submitted,

/Ruby T. Hope/  
Ruby T. Hope  
Reg. No. 34,350  
Attorney for the Applicant(s)

Johnson and Johnson  
One Johnson and Johnson Plaza  
New Brunswick, New Jersey 08933  
(732) 524-1024  
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